

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>LUIS E. LOPEZ, JR.,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:16-838</b>
<b>v.</b>	:	<b>(D.J. MANNION)</b>
		<b>(M.J. SCHWAB)</b>
<b>NANCY A. BERRYHILL,</b>	:	
<b>DEPUTY COMMISSIONER FOR</b>	:	
<b>SOCIAL SECURITY OPERATIONS,<sup>1</sup></b>	:	
<b>Defendant</b>	:	

**MEMORANDUM**

Pending before the court is the report of Magistrate Judge Susan E. Schwab filed on May 15, 2018, which recommends that the plaintiff's appeal of the final decision of the Commissioner decision denying his claims for disability insurance benefits and supplemental security income under Titles II and XVI of the Social Security Act be granted and, that the Commissioner's decision be vacated. Judge Schwab also recommends that this case be remanded to the Commissioner to conduct a new administrative hearing pursuant to [42 U.S.C. §405\(g\)](#). (Doc. 14). On May 17, 2018, the Commissioner waived the opportunity to respond to Judge Schwab's report,

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<sup>1</sup>Nancy A. Berryhill is Deputy Commissioner of Operations for Social Security. Although Berryhill is no longer the Acting Commissioner, she is presently performing duties and functions of the Commissioner. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted for Carolyn W. Colvin as the defendant in this suit.

(Doc. 15). On May 21, 2018, the plaintiff filed a letter indicating that he was not objecting to Judge Schwab's report. (Doc. 16).

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31.

The court has reviewed the reasons presented by Judge Schwab for recommending that the plaintiff's appeal be granted and, that the denial of his applications for benefits be vacated. Because the court agrees with the sound reasoning that led Judge Schwab to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
**United States District Judge**

**Date: May 22, 2018**

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